

**224.40-330 Disclosure of background information -- Effect on permit -- Exemptions -- Cabinet's authority to establish other grounds.**

- (1) The cabinet may revoke, modify, suspend, or deny a permit for a waste site or facility if the applicant, or any of its key personnel, has:
  - (a) Intentionally misrepresented or concealed any material fact in the application;
  - (b) Obtained or attempted to obtain the permit by misrepresentation or concealment;
  - (c) Been convicted by final judgment of any felony within five (5) years preceding the filing of the application;
  - (d) Been adjudged by an administrative agency or a court to have violated the environmental protection laws or administrative regulations of the United States, the Commonwealth, or any other state, and the cabinet determines that the conviction or adjudication is sufficiently probative of the applicant's inability or unwillingness to operate the facility in a lawful manner as to warrant revocation, modification, suspension, or denial of the permit. In making the determination, the cabinet shall consider:
    1. The nature and details of the acts attributed to key personnel;
    2. The degree of culpability of the applicant, if any;
    3. The applicant's policy or history of discipline of key personnel for such activities;
    4. Whether the applicant has substantially complied with all rules, administrative regulations, permits, orders, and statutes applicable to the applicant's activities in Kentucky;
    5. Whether the applicant has implemented formal management controls to minimize and prevent the occurrence of these violations; and
    6. Mitigation based upon demonstration of good behavior by the applicant, including prompt payment of damages, cooperation with investigations, termination of employment or other relationship with key personnel or other persons responsible for the violations, or other demonstrations of good behavior by the applicant that the cabinet finds relevant to its decision.
- (2)
  - (a) Before an application for the issuance, renewal, or transfer of a permit for a solid waste management facility may be granted or before there is a change in key personnel of the applicant, the applicant and each person who is a key personnel of the applicant shall submit to the cabinet a disclosure statement that meets the requirements set forth in subsection (2)(b) of this section and is executed under subsection (2)(c) of this section.
  - (b) In a disclosure statement required under this section, the applicant shall set forth the following information:
    1. The name, business address, and Social Security number of the applicant and its key personnel;

2. A description of the applicant's and its key personnel's experience in managing solid and hazardous waste including any past or present permits or licenses held by the applicant or its key personnel within the previous five (5) years;
  3. A description of all civil and administrative complaints against the applicant and its key personnel for the violation of any state or federal environmental protection law that:
    - a. Have resulted in a fine or penalty of more than one thousand dollars (\$1,000) within five (5) years before the date of the submission of the application; or
    - b. Allege an act or omission that constitutes a violation of a state or federal environmental protection law and that presented a substantial endangerment to the public health or the environment;
  4. A description of all pending criminal complaints alleging the violation of any state or federal environmental protection law that have been filed against the applicant and its key personnel within five (5) years before the date of submission of the application;
  5. A description of all judgments of criminal conviction entered against the applicant and its key personnel within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law;
  6. A description of all judgments of criminal conviction of a felony under the laws of any state or the United States that are entered against the applicant and its key personnel within five (5) years before the date of submission of the application; and
  7. The identification and location of all waste sites or facilities and solid waste management facilities in which the applicant or any of its key personnel has a financial or equitable interest, or is an officer, director, or manager;
- (c) A disclosure statement submitted under subsection (2)(a) of this section shall be executed under oath or affirmation and shall be subject to the penalty for perjury under KRS Chapter 523;
- (d) The cabinet shall investigate to verify the accuracy of the information set forth in a statement required under this section.
- (3) No permit shall be issued to an applicant where the disclosure statement or other information available to the cabinet indicates that any waste site or facility owned or controlled by the applicant or its key personnel is currently in violation of this chapter or any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to environmental protection, until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over the violation, or that the violation is under appeal.

- (4) The provisions of subsection (2) of this section shall not apply to an industrial solid waste disposal facility operated exclusively by the industrial solid waste generator on property owned by the industrial solid waste generator and which accepts only industrial solid waste exclusively from the industrial solid waste generator or wholly-owned subsidiary.
- (5) This section shall not apply to a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator for the purpose of accepting industrial solid waste exclusively from the solid waste generator.
- (6) This section shall not apply to a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth.
- (7) The provisions of this section shall not prohibit the cabinet from establishing by administrative regulation other grounds for the revocation, modification, suspension, or denial of a permit for a waste site or facility.
- (8) The provisions of subsection (2) of this section shall not apply to renewals of permits for the treatment or storage of hazardous waste if the hazardous waste is generated at the same waste site or facility for which the treatment or storage permit has been issued.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 360, sec. 2, effective July 15, 1996. -- Created 1991 (1st Extra. Sess.) Ky. Acts ch. 12, sec. 24, effective February 26, 1991.

**Formerly codified as** KRS 224.861.